

2017 -- H 5344 SUBSTITUTE A

LC001082/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO PROPERTY - EASEMENTS

Introduced By: Representative Joy Hearn

Date Introduced: February 02, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 34-7 of the General Laws entitled "By Possession and Prescription"  
2 is hereby amended by adding thereto the following section:

3 **34-7-10. Maintenance of private easements and rights-of-way.**

4 (a) For purposes of this section:

5 (1) "Benefited property" or "property that benefits" includes residential real property  
6 burdened by an easement or right-of-way, the owner of which residential real property uses such  
7 easement or right-of-way; and

8 (2) "Easement" or "right-of-way" means a private appurtenant easement or right-of-way.

9 (3) "Residential real property" means any real property located in Rhode Island, upon  
10 which is constructed or intended to be constructed a dwelling, but does not include property  
11 owned by the state or any political subdivision of the state;

12 (b) The owner of any residential real property that benefits from an easement or right-of-  
13 way, the purpose of which is to provide access to such residential real property, shall be  
14 responsible for the cost of maintaining such easement or right-of-way in good repair; the cost of  
15 repairing or restoring any damaged portion of such easement or right-of-way and for all  
16 liabilities, including, without limitation, injury to persons or damage to property, attributable to  
17 the maintenance of such easement or right-of-way by such owner. Such maintenance shall  
18 include, but not be limited to, the removal of snow from such easement or right-of-way.

19 (c) If more than one residential real property benefits from such easement or right-of-

1 way, the cost of maintaining and repairing or restoring such easement or right-of-way shall be  
2 shared by each owner of a benefited property, pursuant to the terms of any enforceable written  
3 agreement entered into for such purpose. In the absence of such agreement, the cost of  
4 maintaining, repairing or restoring such easement or right-of-way; and for all liabilities,  
5 including, without limitation, injury to persons or damage to property, attributable to the  
6 maintenance or repair of such easement or right-of-way, shall be shared by each owner of a  
7 benefited property in proportion to the benefit received by each such property.

8 (d) Notwithstanding the provisions of subsections (b) and (c) of this section, any owner  
9 of a benefited property who directly or indirectly damages any portion of the easement or right-  
10 of-way shall be solely responsible for repairing or restoring the portion damaged by such owner,  
11 and for all liabilities, including, without limitation, injury to persons or damage to property,  
12 attributable to such damage.

13 (e) If any owner of a benefited property refuses to repair or restore a damaged portion of  
14 an easement or right-of-way in accordance with subsection (d) of this section, or fails, after a  
15 demand in writing, to pay such owner's proportion of the cost of maintaining or repairing or  
16 restoring such easement or right-of-way in accordance with subsection (c) of this section, an  
17 action for specific performance or contribution may be brought in district court against such  
18 owner by other owners of benefited properties, either jointly or severally.

19 (f) In the event of any conflict between the provisions of this section and an agreement  
20 described in subsection (c) of this section, the terms of the agreement shall control.

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO PROPERTY - EASEMENTS

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- 1           This act would establish the rights and obligations of property owners concerning the
- 2 maintenance of private easements and rights-of-way.
- 3           This act would take effect upon passage.

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